

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125-RCJ
)	Subproceedings: C-125-B
Plaintiff,)	3:73-CV-00127-RCJ-WGC
)	
WALKER RIVER PAIUTE TRIBE,)	
)	
Plaintiff-Intervenor,)	Proposed SUPPLEMENTAL CASE
vs.)	MANAGEMENT ORDER
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
_____)	

This matter is before the Court on the *United States of America's Motion for a Supplemental Case Management Order and Memorandum of Points and Authorities in Support*. Upon consideration of the motion and for good cause shown, the Court hereby adopts and enters the following Supplemental Case Management Order ("Supplemental CMO"). This Supplemental CMO updates and implements the original *Case Management Order* (Apr. 18, 2000; Doc. B-108) ("CMO").¹ To the extent it changes, modifies or adjusts the CMO, the Court finds that such changes are appropriate and within its authority.²

1. Modification of Timing of Bifurcation of Claims in C-125-B: The CMO bifurcated the claims of the Walker River Paiute Tribe ("Tribe") and the claims of the United States of

¹ The CMO directs that once defendants are served, they must file a timely notice of appearance and intent to participate, but that "[n]o answers or other pleading will be required except upon further order of the Magistrate Judge entered thereafter." CMO at pg. 12, ¶13. The CMO's provision that "[n]o default shall be taken for failure to appear" is unchanged. *Id.*

² The Court notes that additional Supplemental CMOs will be needed in the future to address additional litigation steps in this matter.

America (“United States”) for the benefit of the Tribe (collectively defined as the “Tribal Claims”) from all other claims raised by the United States. CMO at pg. 2 and pg. 4, ¶1. The Court continues to believe that bifurcation is appropriate and hereby identifies the next steps in an on-going process to streamline litigation, address the merits of the Tribal Claims, move the Tribal Claims and all other claims in C-125-B to resolution, and manage this subproceeding in a manner consistent with the Federal Rules of Civil Procedure.

2. Completion of Service: The United States is in the process of completing service pursuant to the CMO. See CMO at pgs. 4-8, ¶¶ 3-8. This service effort applies to the litigation of all claims in Subproceeding C-125-B. Although the CMO recognized that additional parties may need to be joined in later phases of this litigation, CMO at pg. 13, ¶14, well over 2,000 parties have now been joined to this case. If and when additional parties are joined in the future, the Court will address how any such parties will be incorporated into the litigation. The Court enters this Supplemental CMO so that all parties may anticipate the steps and needs associated with litigation and so that this Court may resolve the bifurcated claims efficiently, expeditiously, and fairly.

3. Phase I: Motions Contemplated by Rule 12, FRCP:

a. Once the United States and the Tribe have completed service (including publication) and at a date to be identified by the Court, defendants shall submit any motion identified by Rule 12(b) of the Federal Rules of Civil Procedure that they wish to file. Such motions shall address all claims filed by the United States and Tribe in the *First Amended Counterclaim of the United States of America*

(July 31, 1997; Doc. B-59) and the *First Amended Counterclaim of the Walker River Paiute Tribe* (Doc. B-58);³

- b. Defendants shall coordinate their filings so that to the extent possible the Court is not overwhelmed by redundant or overlapping filings;
 - c. Once any such motions have been filed, the Court will promptly meet with the parties and determine the briefing schedule(s) for these motions, based, in part, on the number of motions filed and the number of issues raised; and
 - d. To the extent that a defendant files a motion (pursuant to Rule 12, 56, or otherwise) that requires the development of discovery by any party, such motions will be deferred until after the Court has resolved the motions submitted pursuant to subparagraph 3(a) of this Order and will be the subject to further scheduling by the Court.
4. Bifurcation: Except to the extent identified in paragraph 3, above, the Tribal Claims remain bifurcated from the remaining Federal Claims. *See* CMO pg. 2. Answers, discovery and proceedings on the Fourth through Eleventh Claims for Relief in the *First Amended Counterclaim of the United States of America* (July 31, 1997; Doc. B-59) shall continue to be stayed until further order of the Court.
5. Subsequent Litigation Phases: Upon completion of Phase I and subject to further orders of the Court, the Court will address the additional necessary steps that must be taken to address the merits of the Tribal Claims. At a time that the Court determines appropriate,

³ Although these proceedings are bifurcated to address the Tribal Claims, as filed by the United States and the Tribe in their respective First Amended Counterclaims, Rule 12 motions shall address the Tribal Claims as well as all other claims asserted by the United States in its first Amended Counterclaims. Specifically, such motions shall address the Tribe's First Amended Counter Claim and the First through Eleventh Claims for Relief identified in the United States' First Amended Counter Claim.

the Court will address such issues as the timing for filing answers to the Tribal Claims as well as counterclaims/crossclaims, discovery, dispositive motions, and trial.

6. Motions: Except as otherwise described in this Supplemental Case Management Order and until further order of the Court, no motion shall be filed without leave of Court and without a certificate that the movant has conferred with opposing counsel in a good-faith effort to resolve the matter without court action.

IT IS SO ORDERED this ____ day of _____, 2013.

Hon. William G. Cobb
United States Magistrate Judge